

The Orissa Gazette



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REVENUE & DISASTER MANAGEMENT DEPARTMENT

NOTIFICATION

The 25th November 2009

No. 45451—R. & REH.-12/2009-R. & D.M.—The following draft of certain rules which the State Government propose to make in pursuance to sub-section (1) of Section 55 of the Land Acquisition Act, 1894 (1 of 1894) is hereby published as required by sub-section (2) of Section 55 of the said Act for information of the members of general public and notice is hereby given that the said draft will be taken into consideration by the State Government on or after the expiry of the period of thirty days from the date of publication of this notification in the *Orissa Gazette*.

Any objection or suggestion which may be received from any person in respect of the said draft before expiry of the period so specified above will be considered by the State Government.

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1. Short title and commencement :—

- (1) These rules may be called the Consent Award Rules, 2009.
- (2) They shall come into force on the date of their publication in the *Orissa Gazette*.

2. Definitions—(1) In these rules, unless the context otherwise requires :—

- (a) 'Act' means the Land Acquisition Act, 1894,
- (b) the expression "Consent" means express willingness; agree; a concurrence of will,
- (c) the expression "award" means something that is conferred or bestowed upon a person.

(2) All other words and expressions used but not defined in these rules shall have the same meaning as respectively assigned to them in the Act.

3. Compensation Package—(1) The proposed compensation offer will be a package deal which will include the value of land solatium (30% on market value) and additional market value (12% per annum on market value) calculated separately.

(2) The price of land alone will be negotiated based on proper reasons and justifications.

(3) No negotiation shall be made with middlemen, in order to safeguard the interest of the genuine land losers.

4. Approval of consent rate—(1) The Collector will approve the consent rate of the land being acquired. Approval of the Revenue Divisional Commissioner will be taken by the Collector where the property covers more than one district or acquisition of land is being done for the purpose of a company.

(2) The Collector shall consult the Project Proponent or the Requiring Body and consider their views before approving or recommending the consent rate as the case may be.

5. Determination of the value of the building or any structure:—

The value of the building or structure shall be determined on the basis of value as on the date of preliminary notification. There shall be no deduction for depreciation and 1.3 times of the value will be deemed constant rate. The valuation of standing trees will be done as per the guidelines issued by Government.

6. Requisition for acquisition of private land for any project:—

Requisition for acquisition of private lands for any project (other than projects funded by the State Government) under the provisions of the Act, shall invariably accompany a written commitment of the requiring body that it will pay the cost of acquisition of land as per the consensual agreement between the Land Acquisition Collector (Land Acquisition Officer/Spl. Land Acquisition Officer) and all persons having interest over the lands proposed to be acquired.

7. Issue of notice:—

Alongwith notification under sub-section (1) of Section 4 a general notice shall be issued giving wide publicity informing that the compensation benefits under consent award can be claimed in the manner when called upon to do so.

8. Constitution of the Project Level Compensation Advisory Committee:—

(1) There shall be a Project Level Compensation Advisory Committee (PLCAC) consisting of the following :—

- (i) Sub-Collector / Additional Sub-Collector (of the concerned Revenue Subdivision) -Chairman
- (ii) Land Acquisition Collector (Convener)
- (iii) Project Director Resettlement & Rehabilitation (PD-R&R), if any
- (iv) District Sub-Registrar or concerned Sub-Registrar
- (v) District Agricultural Officer or District Statistical Officer
- (vi) Any other person nominated by the Collector (Chief Revenue Officer of the District)
- (vii) The Executive Engineer, R. & B./R.W., District Forest Officer, District Horticulture Officer (or their representatives) will attend the meetings as and when required.

(2) Where the project covers more than one revenue Subdivision, the meeting to moderate land prices will be chaired by the Additional District Magistrate.

9. Functions of the Project Level Compensation Advisory Committee:—

(1) The Project Level Compensation Advisory Committee will estimate villagewise and category-wise value of land.

(2) The PLCAC will try to moderate the land prices for similar categories of land in all villages of the project area (covered by simultaneous notifications) by adjustments, if the differences with regard to locational advantage, alternate land use potential are not very glaring. This will give the land losers a clear knowledge of the prices offered.

(3) As soon as the Government directs the Collector under Section 7 of the Act to take order for the acquisition of land, the Land Acquisition Collector will issue public notice under Section 9 stating that claims to compensation for all interests in such land may be made in the form and manner by those who intend a consensual agreement on the claim. Individual notices will also be issued in this regard.

(4) (i) The application shall be made in the form and manner indicating the claim separately for land, standing trees, buildings, or other structures. In case of mutation has not been done, a photocopy of the Sale Deed will be attached in proof of title. The applicant will be at liberty to enclose photocopies of sale deeds (at least 3) of comparable land in the vicinity of the subject land to substantiate the basis on which the compensation is claimed.

(ii) The application form would contain a declaration that all relevant matters as per Section 23 of the Act have been taken into consideration and extraneous matters as per Section 24 of the Act have been ignored. The declaration will also state whether the land has been mortgaged or otherwise encumbered and if mortgaged, to whom mortgaged.

(5) As soon as the timeline for making the claim petitions is over, the Land Acquisition Collector will convene the meeting of the PLCAC and place before the Committee all claim petitions together with the relevant records/registers for its consideration.

(6) The PLCAC will consider the claim petitions with reference to the villagewise and categorywise estimated value of land, make field inspection if necessary and in fit cases will re-estimate the market value of the subject land after taking into account the physical attributes such as quality of the land, alternate use potential and locational advantage.

(7) The PLCAC will negotiate the value of land alone with the persons having interest over the land villagewise and finalize the same subject to approval of the Collector/Revenue Divisional Commissioner of the concerned district/division as the case may be.

(8) Consent rates formulated as above will be submitted to the Collector for his approval/or for recommendation to RDC for his approval as the case may be.

(9) Before approving the consent rate or recommending the consent rate to RDC for approval, the Collector will consult the Project Proponent or Requiring Body and consider their views in the matter.

(10) The PLCAC will calculate the proposed compensation in a package deal inclusive of the value of land buildings, other structures, trees and solatium (30% on market value), and (additional market value @ 12% per annum on market value) calculated separately and discuss the same with all persons having interest over the land villagewise and will record their response.

(11) The PLCAC will send the finalized proposed packages to the Land Acquisition Collector along with the list of interest holders agreeable to the proposed compensation package.

10. Finalization of agreement—(1) Land Acquisition Collector will ask all persons having interest over the lands to execute an agreement in the form appended to these rules.

(2) No agreement will be executed unless all the co-sharers and other interest holders of the concerned land jointly sign the agreement.

(3) After the consensual agreement is executed, awards will be passed by the Land Acquisition Collector under the sub-section (2) of Section 11 read with second proviso to sub-section (2) of Section 31 of the Act.

11. Residuary Provisions :—

(1) Award under sub-section (1) of Section 11 shall be made if negotiation fails to arrive at an agreement under sub-section (2) thereof.

(2) The Collector and Revenue Divisional Commissioner will sanction the revised estimate even if it exceeds 20% of the sanctioned amount as per the approved consent rates in respect of land acquired for public purposes and company respectively about which the Revenue & Disaster Management Department will be kept informed within a week.

12. Repeal and Savings:—

All executive instructions issued on the subject prior to coming into force of these rules are hereby repealed:

Provided that actions taken, things done as per the instructions so repealed shall be deemed to have been taken and under the provisions of these rules.

FORM OF AGREEMENT

[See 10(1)]

Form containing the matters agreed to buy the persons interested in land to be included in the award of the Collector under sub-section (2) of Section 11 of the Land Acquisition Act.

Before the Collector of the district

L. A. Case No.

I/We,

Sl.No.	Name of the person	Father's name	Address
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am / are interested in the lands in Plot No....., Holding No....., Mouza....., P.S., District.....which is under acquisition in the above named case and have agreed amongst ourselves this the day oftwo thousand.....that the following matters are to be included in the award of the Collector in the aforesaid Land Acquisition Proceeding and shall be payable to the respective persons accordingly.

(i) The compensation may be apportioned in the manner as mentioned below :

Sl.No.	Name of the person	Percentage of total interest	Amount of compensation
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(ii) The amount of compensation may be fixed according to the rate per acre in respect of kisam of land as mentioned below :—

Kisam of land

Value of land per acre

Signature / Signatures of the claimants

Witnesses (two)

1. Name..... 1. Name.....

Address

Signature.....

Signature.....

2. Name.....

2. Name.....

Address.....

Signature.....

Signature.....

3.

4.

5.

Accepted by the Collector of the district.

Collector

By order of the Governor

R. K. SHARMA

Secretary to Government